THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1326 OF 2005

Dt: 08.08.2005

Between:

The District Co-operative Central Bank

Rep.by its Person-in-Charge, Khammam …. PETITIONERS

and another

AND

K.S.Narasimha Reddy, S/o.Ranga reddy

Retired Manager

District Co-op.Central Bank, Khammam … RESPONDENT

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1326 OF 2005

JUDGMENT: (per the Hon'ble Sri.Justice P.Lakshmana Reddy)

The present Writ Appeal has been filed against the Order, dated 06.06.2005, in Writ Petition No.23415 of 2004 passed by a learned single Judge of this Court.

The respondent herein had filed the Writ Petition seeking a Writ of Mandamus to

declare the action of the appellants in not releasing and paying the retirement benefits i.e., retirement gratuity and leave encashment as illegal.

The learned single Judge allowed the Writ Petition directing the appellants to pay the retiral benefits i.e., retirement gratuity and leave encashment within a period of four weeks from the date of receipt of a copy of that order.

The appellants herein who are the respondents in the Writ Petition filed this Appeal contending that subsequent to the date of retirement of the respondent, the appellant-Bank came to know about some financial irregularities, for which an enquiry has been ordered and that as per the enquiry report, the respondent-writ petitioner is liable to pay certain amounts and therefore, the Order of the learned single Judge to pay all the retiral benefits, irrespective of the enquiry report, is not sustainable and is liable to be set aside.

Learned counsel for the appellants further contended that the enquiry report has been submitted and surcharge proceedings have been initiated and therefore, to the extent of atleast leave encashment, the Order of the learned single Judge may be set aside.

On the other hand, learned counsel for the respondent-writ petitioner submitted that the allegations made against the respondent are not proved and that no opportunity so far been given to him to challenge the allegations made against him and that the amount mentioned in the enquiry report was the amount paid in pursuance of the interim orders passed by this Court in another Writ Petition and therefore, he cannot be made liable for that amount and that at any rate, the retiral benefits cannot be withheld on the alleged surcharge proceedings to be initiated in future.

As admittedly, the respondent was permitted to retire without any conditions, he is entitled to all the retiral benefits. But, however, as the appellants' counsel submitted that the surcharge proceedings have been initiated, there is likelihood of fixing the liability on the respondent, we deem it fit to permit the appellants to withhold only to the extent of Rs.20,000/- pending enquiry. Therefore, to that extent, the Order of the learned single Judge is modified and the appellants are directed to pay the entire gratuity amount and the amount relating to leave encashment except to the extent of Rs.20,000/-, with interest at 9% per annum from the date of expiry of one month after retirement till the date of payment and the said withheld amount of Rs.20,000/- will

be subject to the result of the enquiry. If anything more is found required to be recovered from the respondent, the appellants are at liberty to recover the said amount by way of initiating appropriate proceedings, in accordance with law.

The Writ Appeal is accordingly disposed of. No order as to costs.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 08.08.2005

bsv/lvl